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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-153**

13 **LESLIE CHIYENO FUKUSHIMA**
P.O. Box 4333
Camp Connell, CA 95223

A C C U S A T I O N

14 **Registered Nurse License No. 722897**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about March 17, 2008, the Board issued Registered Nurse License Number
23 722897 to Leslie Chiyeno Fukushima ("Respondent"). Respondent's registered nurse license was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2013, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11 COST RECOVERY

12 6. Code section 125.3 provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licensee found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 7. At all times relevant to the charges brought herein, Respondent was employed as a
19 registered nurse in the emergency department at Marshall Medical Center ("MMC") located in
20 Placerville, California.

21 8. MMC had a written Drug Free Workplace Policy in effect at the time of Respondent's
22 employment which stated, in part, as follows:

23 This policy prohibits the use, possession, consumption, sale, distribution
24 of, or manufacture of drugs. Anyone testing positive for drugs or alcohol, the abuse
25 of legally-prescribed medications, or having the odor of alcohol on the breath while
26 on hospital property, premises, or while conducting hospital business off-premises,
shall be immediately suspended and may face disciplinary action up to and including
termination.

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9. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in that Respondent committed acts constituting unprofessional conduct, as follows:

a. On or about November 11, 2010, Respondent was scheduled to work at MMC from approximately 7:00 p.m. to 7 a.m.; however, because of a reduced workload, she was placed on an on-call status. Respondent was called in to work and arrived at MMC at approximately 9:00 p.m. Later, Respondent was reported to have an odor of alcohol on her breath in violation of MMC's Drug-Free Workplace Policy. Respondent was requested to submit to a blood alcohol test and tested positive for alcohol, in violation of the above policy (Respondent's test results showed that she had a blood alcohol concentration level of 0.063%). MCC fired Respondent.

b. During the morning of November 11, 2010, Respondent, by her own admission, drank an entire bottle of Jack Daniel's whiskey mixed with coca cola with a friend, and "blacked out". Respondent knew that she would be on an on-call status at MMC later that day.

PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 722897, issued to Leslie Chiyeno Fukushima;

2. Ordering Leslie Chiyeno Fukushima to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: September 5, 2012 Stacey Benson
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2011103132